

110TH CONGRESS
2D SESSION

S. 2769

To authorize appropriate use of information in the Firearms Trace Database,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 13, 2008

Mr. MENENDEZ (for himself, Mr. LAUTENBERG, Mr. KENNEDY, Mr. REED, Mrs. CLINTON, Mr. SCHUMER, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To authorize appropriate use of information in the Firearms
Trace Database, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Firearms Information
5 Use Act of 2008”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

8 (1) the term “covered firearms information”
9 means any information—

1 (A) contained in the Firearms Trace Sys-
2 tem database maintained by the National Trace
3 Center of the Bureau of Alcohol, Tobacco, Fire-
4 arms and Explosives;

5 (B) required to be kept by a licensee under
6 section 923(g) of title 18, United States Code;
7 or

8 (C) required to be reported under para-
9 graph (3) or (7) of section 923(g) of title 18,
10 United States Code;

11 (2) the term “firearm” has the meaning given
12 that term in section 921 of title 18, United States
13 Code;

14 (3) the term “licensee” means a person licensed
15 under chapter 44 of title 18, United States Code;
16 and

17 (4) the term “qualified civil liability action” has
18 the meaning given that term in section 4 of the Pro-
19 tection of Lawful Commerce in Arms Act (15 U.S.C.
20 7903).

21 **SEC. 3. REPEAL OF RESTRICTIONS.**

22 (a) IN GENERAL.—The Consolidated Appropriations
23 Act, 2008 (Public Law 110–161) is amended under the
24 heading “SALARIES AND EXPENSES” under the heading
25 “BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EX-

1 PLOSIVES” under title II of division B by striking “*Pro-*
 2 *vided further*, That, beginning in fiscal year 2008 and
 3 thereafter, no funds” and all that follows through “felons,
 4 and trafficking investigations:”.

5 (b) OTHER FISCAL YEARS.—

6 (1) IN GENERAL.—The sixth proviso under the
 7 heading “SALARIES AND EXPENSES” under the
 8 heading “BUREAU OF ALCOHOL, TOBACCO, FIRE-
 9 ARMS AND EXPLOSIVES” under title I of the Science,
 10 State, Justice, Commerce, and Related Agencies Ap-
 11 propriations Act, 2006 (Public Law 109–108; 119
 12 Stat. 2295) is amended—

13 (A) by striking “with respect to any fiscal
 14 year”; and

15 (B) by striking “, and all such data shall
 16 be immune from legal process” and all that fol-
 17 lows through “a review of such an action or
 18 proceeding”.

19 (2) FISCAL YEARS 2005 AND 2003.—Section 644
 20 of title VI of division J of the Consolidated Appro-
 21 priations Resolution, 2003 (5 U.S.C. 552 note) and
 22 the sixth proviso under the heading “SALARIES AND
 23 EXPENSES” under the heading “BUREAU OF ALCO-
 24 HOL, TOBACCO, FIREARMS AND EXPLOSIVES” under
 25 title I of division B of the Consolidated Appropria-

1 tions Act, 2005 (Public Law 108–447; 118 Stat
 2 2860) are each amended by striking “with respect to
 3 any fiscal year”.

4 (3) FISCAL YEAR 2004.—The sixth proviso
 5 under the heading “SALARIES AND EXPENSES”
 6 under the heading “BUREAU OF ALCOHOL, TO-
 7 BACCO, FIREARMS AND EXPLOSIVES” under title I
 8 of the Consolidated Appropriations Act, 2004 (Pub-
 9 lic Law 108–199; 118 Stat. 53) is amended by add-
 10 ing at the end the following “, and before October
 11 1, 2004”.

12 (c) EFFECTIVE DATE; APPLICABILITY.—The amend-
 13 ments made by this section shall—

14 (1) take effect on the date of enactment of this
 15 Act;

16 (2) apply to any request for or disclosure of in-
 17 formation—

18 (A) pending on the date of enactment of
 19 this Act; or

20 (B) made on or after the date of enact-
 21 ment of this Act;

22 (3) apply to the admissibility of evidence in any
 23 proceeding pending on or after the date of enact-
 24 ment of this Act; and

1 (4) apply, notwithstanding any provision of any
2 appropriations Act.

3 **SEC. 4. LIMITATIONS ON DISCLOSURE AND USE IN CIVIL**
4 **PROCEEDINGS.**

5 (a) DISCLOSURES TO LAW ENFORCEMENT AND
6 OTHER GOVERNMENT AGENCIES.—Upon receipt of a re-
7 quest from a law enforcement agency, a Federal agency,
8 a Member of Congress, or the chief executive of a State,
9 local, or tribal government in connection with a law en-
10 forcement, national security, or intelligence purpose, for
11 covered firearms information, the Attorney General shall
12 provide all such information.

13 (b) PROTECTIONS AGAINST PUBLIC DISCLOSURE.—
14 No Federal department or agency or State, local, or tribal
15 government shall knowingly and publically disclose covered
16 firearms information that—

17 (1) identifies any undercover law enforcement
18 officer or confidential informant;

19 (2) contains specific information relating to any
20 case under investigation; or

21 (3) includes the name, address, or any other
22 uniquely identifying information of the lawful pur-
23 chaser of any firearm.

24 (c) LIMITATIONS ON USE IN CIVIL PROCEEDINGS.—

1 (1) IN GENERAL.—Subject to paragraph (2),
2 covered firearms information may be used, relied on,
3 disclosed, and is admissible, and testimony or other
4 evidence may be permitted based upon such informa-
5 tion, in any court or administrative proceeding to
6 the extent permitted under the rules applicable to
7 such proceeding.

8 (2) FIREARMS TRACE SYSTEM DATABASE.—In-
9 formation contained in the Firearms Trace System
10 database maintained by the National Trace Center
11 of the Bureau of Alcohol, Tobacco, Firearms and
12 Explosives may not be used, relied on, disclosed, or
13 admitted, and no testimony or other evidence shall
14 be permitted based on such information—

15 (A) in any qualified civil liability action,
16 except that such information may be considered
17 in camera in determining whether an action or
18 proceeding is a qualified civil liability action; or

19 (B) if that information identifies any un-
20 dercover law enforcement officer or confidential
21 informant.

22 (d) AVAILABILITY FOR USE IN GOVERNMENTAL AD-
23 MINISTRATIVE PROCEEDINGS.—Nothing in this section
24 may be construed to limit the disclosure for use in, or the
25 use, reliance on, disclosure, admissibility, or permissibility

1 of using, covered firearms information in any action or
2 proceeding that is—

3 (1) commenced by the Bureau of Alcohol, To-
4 bacco, Firearms, and Explosives to enforce the pro-
5 visions of chapter 44 of title 18, United States Code;

6 (2) instituted by a government agency and re-
7 lating to a license or similar authorization; or

8 (3) a review of an action or proceeding de-
9 scribed in paragraph (1) or (2).

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